S.B. Criminal Misc. Petition NO.601/2007
(Ramesh Chandra Vs. State)

Date of order : 14.5.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. V.D. Kalla, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioner and gone through the impugned order.

By way of filing the present misc. petition, the petitioner has challenged the order impugned dated 20.04.2006 passed by Judicial Magistrate No.2, (North), Udaipur whereby cognizance was taken against the petitioner for offence under Sections 407, 420 and 120-B I.P.C. The next date for charge arguments before the trial court has been fixed as 28.6.2007.

According to the provisions of Code of Criminal Procedure, the opportunity is available to the petitioner to raise all grounds before the trial court for his discharge under Section 239 Cr.P.C. and the Magistrate is under an obligation to provide an opportunity of hearing to the petitioner and consider the arguments and objections advanced/raised by the accused at that time. Thus, at this stage, it is not proper to interfere with the order impugned, taking cognizance against the petitioner.

In this view of the matter, the misc.

petition is dismissed with the observation that the learned trial court may consider all the material on record as well as the arguments and objections advanced/raised by both the parties at the stage of Section 239 Cr.P.C. in accordance with the law.

(GOPAL KRISHAN VYAS), J .

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